

FISHER & PHILLIPS LLP

ATTORNEYS AT LAW

www.laborlawyers.com

Kansas City

The Stilwell Building
Suite 400
104 West Ninth Street
Kansas City, MO 64105
(816) 842-8770 Tel
(816) 842-8767 Fax

U.S. DISTRICT COURT E.D.N.Y.

★ SEPT 20 2005 ★

BROOKLYN OFFICE

MOVANT'S COUNSEL IS DIRECTED
TO SERVE A COPY OF THIS ORDER
ON ALL PARTIES UPON RECEIPT

September 9, 2005

VIA FACSIMILE

The Honorable Robert M. Levy
United States Magistrate Judge
United States District Court for the
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Application granted.
The conference is
adjourned to
January 11, 2006 @ 3:30 pm

So ordered.

Re: *Lisle King v. Interstate Brands Corp.*, 02 Civ. 6470 (JG/RML)

s/Robert M. Levy

9/9/05

Dear Judge Levy:

We represent Defendant Interstate Brands Corporation ("IBC") in the above-referenced action. We are writing with the consent of counsel for Plaintiff to advise the Court of the status of the case and to respectfully request the Court's approval of a thirty day extension of the pre-trial deadlines set by this Court's June 29, 2005 Order.

On September 22, 2004, the day after Plaintiff submitted a status report, IBC filed a voluntary petition in bankruptcy pursuant to Chapter 11 of the United States Bankruptcy Code. Pursuant to 11 U.S.C. § 362(a), IBC's bankruptcy filing automatically imposed a stay of all proceedings in this action. On November 24, 2004, Plaintiff filed a motion with the Bankruptcy Court for an order lifting the automatic stay to permit the instant action to proceed. On January 18, 2005, Plaintiff and IBC entered into a stipulation resolving the motion. Under the Stipulation, the automatic stay remained in effect, as to Mr. King, until May 25, 2005. The automatic stay was then lifted to allow this action to proceed to final judgment.

On June 29, 2005, the parties submitted a status report and proposed pre-trial schedule. On June 29, 2005, this Court adopted the proposed pre-trial schedule and further scheduled a telephone conference for November 30, 2005. Since June 29, 2005, the parties have discussed and resolved

The Hon. Robert M. Levy

September 9, 2005

Page 2

certain disputes regarding written discovery responses, agreed to serve supplemental responses to written discovery requests and have attempted to schedule depositions, including the deposition of former IBC employee and Human Resource manager Gene Crawford. Due to a variety of factors, the first available dates for depositions were not until the weeks of September 19 and September 26, 2005. The parties now are in the process of scheduling depositions for mutually agreeable dates during the week of September 19 or September 26.

Accordingly, the parties are unable to complete fact discovery by the current deadline of September 9, 2005, and require an additional 30 days to complete fact discovery. For these reasons, the parties request a 30 day extension of the pre-trial deadlines set by this Court's June 29, 2005 Order. The parties respectfully request that the Court "so order" the following pre-trial schedule:

Completion of fact discovery:	October 10, 2005
Service of Plaintiff's expert witness report:	October 10, 2005
Service of Defendant's expert witness report:	November 21, 2005
Conclusion of expert discovery:	December 21, 2005
Submission of joint status report:	December 30, 2005
Submission of Defendant's pre-motion letter:	January 5, 2006
Submission of Plaintiff's pre-motion letter:	January 12, 2006
Pre-motion conference:	January 19, 2006
Filing of dispositive motion:	February 13, 2006

The parties further request that the Court re-schedule the November 30, 2005 telephone conference to a later date, following submission of the joint status report on December 28, 2005.

The Court's considerations are appreciated.

Respectfully submitted,

By: 

Mark A. Stites

The Hon. Robert M. Levy
September 9, 2005
Page 3

cc: David Sapp, Esq. (via facsimile and first-class mail)